

CHAPTER 12  
MANDATORY REPORTING AND GROUNDS FOR DISCIPLINE

[Prior to 5/4/88, see 470—135.201 to 470—135.215, and 470—135.301]

**653—12.1(272C) Mandatory reporting—judgments or settlements.** Each licensee, including licensees holding lapsed licenses, shall report to the board every adverse judgment in a malpractice action to which the licensee is a party and every settlement of claim against the licensee alleging malpractice. The report together with a copy of the judgment or settlement must be filed with the board within 30 days from the date of said judgment or settlement. Failure to report judgments or settlements in accordance with this rule within the required 30-day period shall constitute a basis for disciplinary action against the licensee who failed to report.

**653—12.2(272C) Mandatory reporting—wrongful acts or omissions.**

**12.2(1) Definitions.** For the purposes of this rule, the following definitions apply.

*“Knowledge”* means any information or evidence of reportable conduct acquired by personal observation, from a reliable or authoritative source, or under circumstances causing the licensee to believe that wrongful acts or omissions may have occurred.

*“Reportable conduct”* means wrongful acts or omissions that may constitute a basis for disciplinary action under this chapter or any state law or administrative rule that gives the board jurisdiction over the conduct of a licensee.

**12.2(2) Reporting requirement.** A report shall be filed with the board when a licensee has knowledge as defined in this rule that another person licensed by the board may have engaged in reportable conduct.

*a.* The report shall be filed with the board no later than 30 days from the date the licensee acquires knowledge of the reportable conduct.

*b.* The report shall contain the name and address of the licensee who may have engaged in the reportable conduct, the date, time, place and circumstances in which the conduct occurred, and a statement explaining how knowledge of the reportable conduct was acquired.

*c.* The final determination of whether or not wrongful acts or omissions have occurred is the responsibility of the board.

*d.* No licensee is required to report information deemed to be a confidential communication as a result of a physician-patient relationship or which is prohibited by state or federal statute.

*e.* Failure to report wrongful acts or omissions in accordance with this rule within the required 30-day period shall constitute a basis for disciplinary action against the licensee who failed to report.

**653—12.3(148,272C) Order for mental, physical, or clinical competency examination or alcohol or drug screening.** A physician who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the physician’s expense.

**12.3(1) Content of order.** A board order for a mental, physical, or clinical competency examination shall include the following items:

*a.* A description of the type of examination to which the physician must submit.

*b.* The name and address of the examiner or evaluation or treatment facility that the board has identified to perform the examination on the physician.

*c.* The time period in which the physician must schedule the required examination.

*d.* The amount of time in which the physician has to complete the examination.

- e. A requirement that the physician sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.
- f. A requirement that the physician cause a report of the examination results to be provided to the board within a specified period of time.
- g. A requirement that the physician communicate with the board regarding the status of the examination.
- h. A concise statement of the facts relied on by the board to order the evaluation.

**12.3(2) *Alternatives.*** Following issuance of the evaluation order, the physician may request additional time to schedule or complete the examination or to request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

**12.3(3) *Objection to order.*** A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of rules 12.11(17A) to 12.43(272C). A contested case involving an objection to an examination order will be captioned in the name of Jane Doe or John Doe in order to maintain the licensee's confidentiality.

**12.3(4) *Closed hearing.*** Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(4).

**12.3(5) *Order and reports confidential.*** An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

**12.3(6) *Admissibility.*** In the event the physician submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the evaluating physicians' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the physician in any proceeding other than one relating to licensee discipline by the board.

**12.3(7) *Failure to submit.*** Failure of a physician to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

**653—12.4(272C) *Additional grounds for discipline.*** The board has authority to impose discipline for any violation of Iowa Code chapter 147, 148, or 272C or the rules promulgated thereunder. The board may impose any of the disciplinary sanctions set forth in rule 12.33(272C), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses. This rule is not subject to waiver or variance pursuant to IAC 653—Chapter 3 or any other provision of law.

**12.4(1) *Fraud in procuring a license.*** Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy in this state, and includes false representations of material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board any false or forged document submitted with an application for a license in this state.

**12.4(2) *Professional incompetency.*** Professional incompetency includes but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- b. A substantial deviation by the physician from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same or similar circumstances;

c. A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances;

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery or osteopathy in the state of Iowa.

**12.4(3)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, by a physician in the practice of medicine and surgery, osteopathic medicine and surgery or osteopathy, and includes any representation contrary to the physician's legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare and may operate to the injury of another.

b. Engaging in unethical conduct includes, but is not limited to, a violation of the standards and principles of medical ethics and code of ethics set out in rules 653—13.10(147,148,272C) and 653—13.11(147,148,272C), as interpreted by the board.

c. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a physician to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent physician acting in the same or similar circumstances in this state, or when a physician is unable to practice medicine with reasonable skill and safety to patients as a result of a mental or physical impairment or chemical abuse.

d. Practice harmful or detrimental to the public includes, but is not limited to, the use of a rubber stamp to affix a signature to a prescription. A person who is unable, due to a disability, to make a written signature or mark, however, may substitute in lieu of a signature a rubber stamp which is adopted by the disabled person for all purposes requiring a signature and which is affixed by the disabled person or affixed by another person upon the request of the disabled person and in the presence of the disabled person.

e. Practice harmful or detrimental to the public includes, but is not limited to, the practice of maintaining any presigned prescription which is intended to be completed and issued at a later time.

**12.4(4)** Habitual intoxication or addiction to the use of drugs.